

REMARKS

This response is being mailed with a petition to revive for unintentional abandonment.

Claims 3 and 4 are pending and have been amended herein to overcome the Examiner's 102 and 103 rejections.

Claim Rejections - 35 USC §101

Claims 3 and 4 are rejected under 35 USC §101 even though the claimed invention produces a useful, concrete, and tangible result, but "not within the technological arts." In the recently decided case of Ex parte Carl A Lundren 76 USPQ2d 1385 (BPAI 2005) the BPAI reversed a 101 rejection because "there is currently no judicially recognized separate technological arts test to determine patent eligible subject matter under § 101." Therefore, the Examiner's rejection under §101 cannot be sustainable as a proper rejection, if the sole reasoning is because the invention is not within the technological arts. Moreover, since the Examiner specifically states the claimed invention is useful, the Applicant has met its burden of claiming statutory subject matter. Reconsideration is respectfully requested.

Claim Rejections - 35 USC §102 and 35 USC §103

Claim 3 is rejected under 35 USC 102(e) as being anticipated by Horrigan et al. Claim 4 is rejected under 35 USC 103(a) as being unpatentable over Horrigan in view of Gould et al. The Applicant appreciates the teachings of Horrigan, and Gould however, use of an Iterative Proportional Fitting Procedure has been added to Claim 3. Since neither Horrigan nor Gould make any reference to the Iterative Proportional Fitting Procedure (a technique of statistics used in survey – i.e. sampling – research), we submit that now Claim 3 overcomes the prior objections. In addition the use of bin probabilities, originating from at least two parties, has been added to Claim 4. Since neither Horrigan nor Gould make any attempt to use estimated and different probabilities from at least two parties, we submit that now Claim 4 overcomes the prior objections. In view of the above, Applicant respectfully submits that Claims 3 and 4 are not anticipated by Horrigan, nor rendered obvious in view thereof. Reconsideration is requested.

Appl. No. 10/696,100
Amdt. dated December 5, 2005
Reply to Office action of May 3, 2005

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the Office has any questions, please free feel to contact the undersigned at 312-521-2775.

Respectfully submitted,

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